

**Exhibit 50 - Cosby v. KPMG, May 31, 2016**  
**Motion for Appointment as Co-Lead Plaintiffs,**  
**Exhibit 1, Declaration of Gordon Ball**

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
KNOXVILLE DIVISION**

LEWIS COSBY, on behalf of himself	)	
and all others similarly situated,	)	CLASS ACTION
	)	
Plaintiff,	)	
	)	
v.	)	No. 3:16-cv-00121
	)	
DELOY MILLER, et al.,	)	
	)	
Defendants.	)	

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**DECLARATION OF GORDON BALL IN SUPPORT OF  
MOVANTS LEWIS COSBY AND KENNETH R. MARTIN'S  
MOTION FOR APPOINTMENT AS CO-LEAD PLAINTIFFS  
AND APPROVAL OF THEIR SELECTION OF LEAD COUNSEL**

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I, Gordon Ball, declare as follows:

1. I am an attorney duly licensed to practice law before all of the courts of the State of Tennessee and my law firm is Gordon Ball PLLC.

2. I make this declaration in support of Lewis Cosby and Kenneth R. Martin's Motion for Appointment as Co-Lead Plaintiffs and Approval of Their Selection of Counsel. I have personal knowledge of the matters stated herein and, if called upon, I could and would competently testify thereto.

3. Lewis Cosby played an invaluable role in the investigation and commencement of this case. Since the case was filed, he has continued to be involved, and his extensive accounting background, *e.g.*, serving as an auditor of TVA and numerous governmental entities, has served the proposed Class well.

4. Kenneth R. Martin is one of the largest purchasers of Miller Energy common shares and, like Cosby, has demonstrated that he will serve and protect the interests of fellow shareholders who make up the proposed Class.

5. Attached are true and correct copies of the following exhibits:

Exhibit A: Notice of pendency of class action published on Business Wire, a national business-oriented wire service, dated March 30, 2016; and

Exhibit B: Gordon Ball PLLC Firm Résumé.

I declare under penalty of perjury under the laws of the State of Tennessee that the foregoing is true and correct.

Executed this 31st day of May, 2016, at Knoxville, Tennessee.

/s/ Gordon Ball  
Gordon Ball

# **EXHIBIT A**



## **Gordon Ball PLLC Announces Class Action Lawsuit Filed against KPMG, LLP and Miller Energy Board Members and Executives**

March 30, 2016 07:07 AM Eastern Daylight Time

KNOXVILLE, Tenn.--(BUSINESS WIRE)--The law firm of Gordon Ball PLLC (<http://www.gordonball.com>) announces that it has filed a class action lawsuit on behalf of persons who purchased Miller Energy Resources, Inc. ("Miller Energy") (NYSE: MILL) common stock traceable to Miller Energy's December 6, 2012 Registration Statement (the "Class Period").

The case, *Cosby, et al. v. Miller, et al.*, 3:16-cv-00121, is pending in the United States District Court for the Eastern District of Tennessee. The class action is brought against past and current Miller Energy board members and executives Deloy Miller, Scott M. Boruff, Paul W. Boyd, Charles M. Stivers, David M. Hall, Merrill A. McPeak, Jonathan S. Gross, David J. Voytlicky, Don A. Turkleson, Gerald Hannahs, Marceau N. Schlumberger, Bob G. Gower, Joseph T. Leary, William B. Richardson, Carl E. Giesler, Jr., A. Haag Sherman, and KPMG, LLP.

The Complaint alleges that the Individual Defendants violated Sections 11 and/or 15 of the Securities Exchange Act of 1934 by deceiving investors about Miller Energy's financial condition, and/or by concealing adverse material information from investors about the value of purchased oil and gas assets in Alaska. The Complaint also alleges that KPMG, LLP violated Section 10(b) of the Securities and Exchange Act by deliberately or recklessly concealing Miller Energy's financial position. When the truth was revealed to the investing public, shares dropped causing investors harm.

The class in this case has not yet been certified, and until certification occurs, you are not represented by an attorney. If you choose to take no action, you can remain an absent class member. If you purchased or otherwise acquired common shares from Miller Energy traceable to Miller Energy's September 6, 2012 Registration Statement, you may, no later than May 29, 2016, request that the Court appoint you as lead plaintiff. A lead plaintiff is a representative party acting on behalf of other class members in directing the litigation. To be appointed lead plaintiff, the Court must decide that your claim is typical of the claims of other class members, and that you will adequately represent the class. Your ability to share in any recovery is not affected by the decision whether or not to serve as a lead plaintiff. You may retain Gordon Ball PLLC, or other attorneys, to serve as your counsel.

If you wish to discuss your rights, please contact Gordon Ball PLLC at (865) 525-7028. A copy of the complaint is available on our website (<http://www.gordonball.com/complaint.pdf>). To discuss this case with us, please contact:

Gordon Ball ([gball@gordonball.com](mailto:gball@gordonball.com))  
Ste. 600, 550 Main Street  
Knoxville, TN 37902  
Tel: (865) 525-7028  
Website: <http://www.gordonball.com/>

This release may be considered Attorney Advertising in some jurisdictions under applicable ethical rules.

#### Contacts

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# **EXHIBIT B**

# **Gordon Ball PLLC**

*Focusing on Consumer  
Antitrust Class Actions*

*Ste. 600, 550 Main St.  
Knoxville, TN 37902*

## **Biography**

Gordon Ball is a licensed Tennessee attorney whose practice focuses on consumer rights and antitrust class actions. Ball was born in Cocke County, Tennessee. He graduated from East Tennessee State University with a Bachelor of Science degree (1970), received his law degree from the Cecil C. Humphreys School of Law at Memphis State University (1974), and entered the private practice of law the following year.

Ball is admitted to and/or has appeared before numerous federal and state courts across the United States, including the United States Supreme Court, the United States Courts of Appeals for the Fourth, Sixth, Seventh, Ninth, and Eleventh Circuits, and state and federal trial courts in Tennessee, Alabama, Arizona, California, Connecticut, Delaware, Florida, Georgia, Indiana, Illinois, Iowa, Kansas, Kentucky, Maryland, Michigan, Missouri, Nebraska, New Jersey, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Pennsylvania, South Carolina, South Dakota, Texas, Washington, West Virginia, and the District of Columbia.

In the late 1970's, Ball served as an Assistant United States District Attorney for the Eastern District of Tennessee. In 1977, he served as a delegate to the Tennessee Constitutional Convention. After returning to private practice,



Ball specialized in the defense of “white-collar” federal prosecutions, notable among them was his role in 1981 as lead defense counsel in *United States v. Sisk, et al* (a/k/a, the “Pardons and Paroles” case). His client was acquitted after a six-week trial. In 1986-87, Ball was lead defense counsel in the federal bank-fraud prosecution of brothers Jake and C.H. Butcher, Jr., creators of a Tennessee banking empire (United American Bank and C & C Bank). Notably, Ball was the only defense attorney to secure two not guilty jury verdicts in *U.S. v. C.H. Butcher, et al*.

In the late 1980's, Ball turned his legal efforts toward major class action litigation, beginning in 1988 with *Shults v. Champion International Corporation*. Ball – who grew up along the banks of the Pigeon River in the tiny Cocke County town of Hartford – represented approximately 2,600 landowners against a corporate paper giant who had polluted the Pigeon River for nearly eighty years. Ball and his co-counsel vigorously litigated their clients’ case against one of the world’s largest law firms and succeeded in recovering \$6.5 million for the landowners.

For almost 25 years, Ball has been a pioneer in plaintiff’s class action lawsuits, representing victims of various abuses by powerful corporations. He has a long record of successfully litigating cases on behalf of both individuals and classes, particularly in cases involving monopolization and price-fixing. Ball’s aggregate multi-billion dollar recoveries have included cases against oil

companies, telecommunications companies, health care companies, insurance companies, pharmaceutical companies, banks, auto manufacturers, record manufacturers, paper manufacturers, vitamin makers, boat manufacturers, stucco manufacturers, and supermarket chains. Ball and his co-counsel are currently engaged in a number of antitrust and consumer rights cases, including cases against State Farm, Volkswagen, American Express, Dean Foods, International Paper.

Ball has won a national reputation for fighting for American consumers by achieving recoveries in cases that other law firms did not want to handle. Several of Ball's ground-breaking cases have resulted in landmark decisions on previously untried or unsettled issues involving price-fixing and consumer rights.

***An Experienced Class Action Litigator***

A lone consumer is often powerless against a powerful corporation. Through group or class litigation, individuals can join together to enhance their ability to assert their rights and challenge well-financed corporations. As one of the premier class action firms in the South, Gordon Ball PLLC focuses on antitrust class actions, consumer protection class actions, racketeering class actions, and product liability class actions.

Over the past 25 years, Ball has been involved as lead or co-counsel for plaintiffs in dozens of class actions which have recovered *billions of dollars* for consumers across the United States. Ball's greatest successes have been cases

where the financial and valuable benefits to consumers have greatly exceeded the normal benefits to class members in similar cases. Although this list is not all-inclusive, Ball has represented (or is currently representing) consumers in the following class actions:

1. *Spartanburg Regional Health Services District, Inc. v. Hillenbrand Indus., Inc.* (\$468,000,000 settlement in 2006) (6th largest antitrust settlement in U.S. history);

2. *Stinnett v. BellSouth Telecommunications* (\$45,000,000 consumer settlement);

3. *Land v. United Tel. - Southeast* (\$5,000,000 consumer settlement);

4. *In re Travel Agency Com'n Antitrust Litig.* (\$70,000,000 settlement)

5. *Lowe v. Johnson City Medical Center Hospital* (\$1,500,000 consumer settlement);

6. *Shelton v. Blue Cross and Blue Shield of Tennessee* (\$4,000,000 consumer settlement);

7. *Nabors v. General Motors* (nationwide settlement approved in Louisiana with settlement benefits to 6 million owners of GM vehicles);

8. *Cox, et al v. Shell Oil Co.* (\$950,000,000 national settlement in defective polybutylene pipe action) (one of the largest property damage settlements in U.S. history);

9. *Blake v. Abbott Laboratories, Inc.* (\$62,000,000 settlement) (price-fixing of infant formula);

10. *Patrick v. Liberty Health Care Corp.* (\$245,000 settlement) (unpaid sick leave class action);

11. *Hagy v. Sprint Cellular* (\$4,000,000 consumer settlement approved);

12. *Sandpiper Village Condominium Ass'n v. Louisiana-Pacific Corp.*, (\$375,000,000 consumer settlement) (defective hardboard siding);

13. *Ottinger v. EMI Distribution, Inc.* (\$65,000,000 nationwide settlement approved) (price-fixing of compact discs);

14. *Sweet v. Ford Motor Co.* (\$30,000,000 nationwide settlement approved as part of California settlement) (ignition defect);

15. *Fox v. American Cyanamid Co.* (\$15,000,000 settlement) (vertical price-fixing conspiracy in pesticide market);

16. *Wilson v. Chesapeake Corp., et al.* (\$600,000 Tennessee-only settlement) (horizontal price-fixing conspiracy in commercial tissue products market);

17. *Ferguson v. Columbia/HCA Healthcare Corp.* (\$5,000,000 settlement) (overcharges in healthcare industry);

18. *Freeman v. Champion International Corp.* (\$2,400,000 settlement) (nuisance action alleging unlawful pollution of Pigeon River);

19. *McCampbell v. F. Hoffman - LaRoche Ltd., et al.* (\$10,000,000 Tennessee settlement approved) (price-fixing conspiracy in vitamins market);
20. *Milligan v. Food Lion Corp.* (\$3,000,000 nationwide settlement) (unfair or deceptive practices in sales tax charges);
21. *Hunter v. Bank One* (\$25,000,000 nationwide settlement) (class certified) (deceptive bank financing practices);
22. *Carter v. First Tennessee Bank* (\$7,000,000 nationwide settlement) (class certified) (deceptive bank financing practices);
23. *Posey v. Dryvit Corp.* (\$50,000,000 nationwide settlement) (defective synthetic stucco);
24. *Couch v. Brunswick Corporation* (nationwide settlement for consumers valued at \$125,000,000) (monopolization of inboard and stern-drive marine engine market);
25. *Davis v. United States Tobacco Co., et al.* (\$35,000,000 multi-state settlement) (unfair restraint in trade in smokeless tobacco market);
26. *Freeman v. Blue Ridge Paper Co.* (\$2,000,000 jury verdict in 005 in nuisance action against paper mill for polluting Pigeon River);
27. *In re Rubber Chemical Antitrust Litigation* (multi-state settlements collectively approximating \$8,000,000) (price-fixing);
28. *Benson v. Nan Ya Plastics Corp.* (multi-state settlements collectively approximating \$4,800,000) (price-fixing in polyester staple fiber industry);

29. *Conroy v. 3M Corporation* (\$41,000,000 multi-state settlement) (antitrust and consumer protection violations);

30. *McCaleb v. Sunbeam Corp.* (co-lead counsel for Tennessee plaintiffs in settlement of consumer defective blanket action);

31. *Daugherty v. Sony Corp.* (national settlement in action concerning defective DVD players) (lead counsel for Tennessee consumers);

32. *Coleman Properties LLC v. AFG Industries, Inc.* (\$625,000 settlement in price-fixing action against flat-glass manufacturers) (lead counsel)

33. *In re U.S. Foodservice, Inc. Pricing Litigation* (alleging antitrust and racketeering violations) (national class certified);

34. *In re Hypodermic Products Antitrust Litigation* (tying and bundling violations of antitrust laws);

35. *In re Southeastern Milk Antitrust Litigation* (price-fixing violations) (currently co-lead counsel);

36. *In re Hydrogen Peroxide Antitrust Litigation* (\$4,200,000 settlement in price-fixing action) (co-lead indirect purchaser counsel);

37. *Solo et al. v. Chiquita Brands Int'l, et al.* (\$833,333 antitrust settlement earmarked for charitable organizations) (lead indirect purchaser counsel);

38. *In re Endo Surgical Medical Products Antitrust Litigation* (\$13,000,000 antitrust settlement alleging illegal bundling of medical products) (lead counsel for indirect purchasers in case against Johnson & Johnson);

39. *Testerman v. International Paper Co.* (indirect purchaser antitrust class action for price-fixing container-board) (pending);

40. *Benson v. Avery Dennison Corporation, et al.* (price-fixing settlements totaling over \$2,715,000) (lead counsel for indirect purchasers of label stock in Kansas, Nebraska, Tennessee and Vermont);

41. *Canadian Auto Antitrust Litigation* (Tennessee-only settlement of \$1,200,000 with one defendant) (lead counsel for Tennessee consumers) (pending);

42. *Collins v. Guitar Center, Inc.* (price-fixing action against manufacturers of musical instruments and related entities) (pending);

43. *Jabo's Pharmacy, Inc. v. King Pharmaceuticals, Inc.* (lead counsel for Tennessee pharmacy purchasers of drug Skelaxin in antitrust action);

44. *In re: Skelaxin (Metaxalone) Antitrust Litig.* (lead counsel for pharmacies who purchased drug Skelaxin in nationwide antitrust class action);

45. *In re Blue Cross Antitrust Litigation* (co-counsel for subscribers of BCBS health insurance in antitrust cases);

46. *In re Cast Iron Soil Pipe Fittings Antitrust Litigation* (co-lead counsel for indirect purchasers);

47. *Hale v. State Farm Mut. Auto. Ins. Co.* (Co-lead counsel for class of 4.7 million policyholders in RICO action against nation's largest insurer);

48. *Walker, et al., v. NCAA (NCAA Concussion Litigation)* (nationwide class action on behalf of former college football players seeking to establishment fund

to provide medical monitoring for increased risk of latent brain injuries caused by repeated traumatic head impacts);

49. *Jaynes v. American Express Co.* (Co-Chair for Executive Committee for nationwide class of consumers in antitrust action regarding Am-Ex's anti-steering rules); and

50. *de Romero v. Volkswagen Group of America, Inc.* (nationwide class of VW purchasers alleging fraud and concealment).

Ball has also been involved on the defense-side of major class action litigation, currently representing a former CEO of Pilot/Flying J in *Wright v. Pilot Corp., et al.* – a class action filed by trucking companies concerning an allegedly fraudulent rebate scheme.

### ***Significant Settlements or Judgments***

Ball has also served as lead or class counsel in several landmark consumer and antitrust class actions, including:

***Cox v. Shell Oil Company, et al.*** Ball and a number of other counsel filed this case in 1995 charging Shell Oil Company, E.I. du Pont de Nemours, and Hoescht Celanese with manufacturing and marketing defective polybutylene pipes and plumbing systems. The settlement provided a minimum of \$950 million settlement in relief and is the largest class action settlement of its kind in U. S. history.



***Infant Formula Consumer Antitrust Litigation.*** Ball, along with co-counsel, instituted class actions in multiple state courts against three companies who conspired to drive up the price of infant formula. The cases resulted in an aggregate settlement of \$64,000,000.00. Foremost among the cases was *Blake v. Abbott Laboratories*. *Blake* was the first opinion in the history of Tennessee jurisprudence granting indirect purchasers a private right of action under state antitrust and consumer protection laws.

***Spartanburg Regional Health Services District, Inc. v. Hillenbrand Industries, Inc.*** Ball represented Spartanburg Regional Health Services District in a direct purchaser class action against Hillenbrand Industries filed in 2003. *Spartanburg Regional Health Services District, Inc. v. Hillenbrand Industries, Inc.*, No. CA 7:03-2141-HFF (D.S.C.) After substantial discovery, a settlement was reached between the parties, providing nearly \$490 million in relief, including a cash payment to the class of \$337.5 million (representing the sixth largest amount ever recovered in an antitrust class action). Research shows that *Spartanburg* was the first-ever direct purchaser class action successfully challenging monopoly bundling of medical devices.

***Pigeon River Nuisance Litigation.*** For over twenty-five years, Ball has litigated private nuisance claims against the owners of the Canton, North Carolina paper mill on behalf of hundreds of Cocke County landowners who own property downstream from the mill. These pollution class actions have provided the only

remedy available to the landowners, and have resulted in millions of dollars of compensation for the landowners, beginning with a \$6,500,000 settlement against former mill owner, Champion International Corp., in 1993, to a \$2,000,000 jury verdict against Blue Ridge Paper Products, Inc., in 2005, which was upheld on appeal.

### ***Honors & Awards***

In the late 1980's, Ball was selected to be included in the publication *The Best Lawyers in America* and has been included in every subsequent publication since 1989. In 1997, Ball was a recipient of a *Public Justice Achievement Award* by the *Trial Lawyers for Public Justice* for his work on behalf of consumers in the polybutylene pipe product liability litigation, which resulted in an unprecedented settlement providing a minimum of \$950 million in relief and a potentially unlimited maximum recovery for property owners.

### ***Benefitting Worthy Causes***

Many of the cases undertaken by Gordon Ball PLLC eventually result in settlements in which the presiding Court is presented an opportunity to make charitable awards (*cy pres* awards) to national, regional, state and local charitable organizations. Ball has been instrumental in seeking the award of such residual funds for a number of worthy charities and institutions.

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